

BEFORE THE SECRETARY OF AGRICULTURE

PACA Docket No. D-02-0014

Respondent

Decision Without Hearing by Reason of Default

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (hereinafter referred to as the "Act"), instituted by a Complaint filed on March 29, 2002, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that during the period October 2, 2000, through February 3, 2001, Respondent Danny & Sons, Inc., also doing business as Chesapeake Farms, (hereinafter "Respondent") failed to make full payment promptly to 21 sellers of the agreed purchase prices in the total amount of \$1,783,608.03 for 617 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate commerce.

A copy of the Complaint was mailed to Respondent by certified mail at its business mailing address on March 29, 2002, and was returned to the office of the Hearing Clerk on April 16, 2002. A copy of the Complaint was re-mailed to Respondent by regular mail on May 7, 2002 pursuant to Section 1.147(c) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §1.130 *et seq.*, hereinafter "Rules of Practice"), and was returned to the

office of the Hearing Clerk on May 29, 2002. The time for filing an Answer to the Complaint expired on May 27, 2002. The Hearing Clerk additionally sent a copy of the Complaint by certified mail on July 25, 2002 to the attorney of record for Respondent, Robert Scarlett, Esq., who received the Complaint on July 29, 2002. Respondent has not answered the Complaint. The time for filing an Answer having expired, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further procedure pursuant to Section 1.139 of the Rules of Practice.

Finding of Fact

1. Respondent is a corporation organized and existing under the laws of the State of Maryland. Its business address was 4665 Hollins Ferry Road, Baltimore, Maryland 21227. Its mailing address is P.O. Box 18270, Halethorpe, Maryland 21227.
2. At all times material herein, Respondent was licensed under the PACA. License number 940510 was issued to Respondent on January 7, 1994. This license was suspended on April 10, 2001, when the firm failed to pay a reparation order. The license terminated on January 7, 2002, pursuant to Section 4(a) of the PACA (7 U.S.C. §499d(a)), when Respondent failed to pay the required annual renewal fee.
3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.
4. Respondent, during the period November 1998 through July 2001, failed to make full payment promptly to 21 sellers of the agreed purchase prices in the total amount of \$1,783,608.03 for 617 lots of perishable agricultural commodities, which it purchased, received, and accepted in interstate commerce.

Conclusions

Respondent's failure to make full payment promptly with respect to the 617 transactions set forth in Finding of Fact No. 4 above constitutes wilful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

Respondent has committed willful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. 499b), and the facts and circumstances of the violations shall be published.

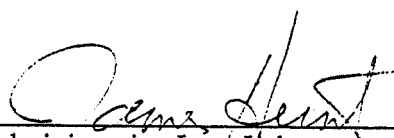
This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. 1.139 and 1.145).

Copies hereof shall be served upon parties.

Done at Washington, D.C.

this 23rd day of January, 2002 2003



Administrative Law Judge